

Wells, Molly

Ex. D to Wells Decl.

From: Paschal, Hogan
Sent: Monday, September 11, 2023 9:40 AM
To: Ehrlich, Andrew J; Kovalenko, Nina
Cc: Karp, Brad S; Beer, Alex; Adam Fels; rlieff@lieff.com; jsaveri@saverilawfirm.com; swilliams@saverilawfirm.com; cyoung@saverilawfirm.com; Louis Kessler; Swanson, James R.; Miller, Kerry; Reichard, Benjamin D.; Wells, Molly; O'Loughlin, Robert J
Subject: RE: FTX/Temasek - O'Keefe Waiver

Andrew,

We've considered your proposal. We do not agree that the manner in which we've filed the complaints is impermissible or otherwise improper for reasons we've expressed in earlier email correspondence. We cannot agree to dismissal of *O'Keefe* in Florida in exchange for Temasek's waiver of service in California. We believe that such dismissal would be contrary to our clients' interest. While we appreciate the offer, we cannot accept your proposal to waive some, but not all, of the FTX cases filed against Temasek. Therefore, we have no choice but to move the MDL Court for an order granting alternative service of Temasek. Based on our prior discussions, it is clear you would oppose this relief and we will note that in the motion. Happy to discuss further if your position changes. Thank you.

Hogan Paschal
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From: Ehrlich, Andrew J <aehrlich@paulweiss.com>
Sent: Tuesday, September 5, 2023 6:55 PM
To: Paschal, Hogan <hpaschal@fishmanhaygood.com>; Kovalenko, Nina <nkovalenko@paulweiss.com>
Cc: Karp, Brad S <bkarp@paulweiss.com>; Beer, Alex <abeer@paulweiss.com>; Adam Fels <afels@ffslawfirm.com>; rlieff@lieff.com; jsaveri@saverilawfirm.com; swilliams@saverilawfirm.com; cyoung@saverilawfirm.com; Louis Kessler <Lkessler@saverilawfirm.com>; Swanson, James R. <jswanson@fishmanhaygood.com>; Miller, Kerry <kmiller@fishmanhaygood.com>; Reichard, Benjamin D. <breichard@fishmanhaygood.com>; Wells, Molly <mwells@fishmanhaygood.com>; O'Loughlin, Robert J <roloughlin@paulweiss.com>
Subject: RE: FTX/Temasek - O'Keefe Waiver

Hogan:

Thank you for your e-mail. As you know, we represent Temasek Holdings (Private) Ltd. ("Temasek Singapore"). You are correct that predecessor counsel had stated in an email Temasek Singapore's intent to accept service, although until your recent email, you have not followed up since March 14, when you sent a waiver of service (made agreement on a deadline for a responsive pleading conditioned on execution of the waiver). At that time, you were prosecuting a single case, *O'Keefe v. Sequoia, et al.*, 23 Civ. 20700, filed in the S.D. Fla.

The circumstances are now quite different. Subsequently, you filed, on behalf of the very same plaintiff, a putative class action in the Northern District of California, O'Keefe v. Sequoia, et al., 23 Civ. 3655 (N.D. Calif.). As we have told you repeatedly, we do not think it is appropriate for Mr. O'Keefe to pursue exactly the same claims in two separate civil actions in two different districts. If Mr. O'Keefe voluntarily dismisses his S.D. Fla. action, Temasek Singapore will execute a waiver of service of the complaint originally filed in California, despite no legal obligation to do so. But we are not executing waivers on behalf of either complaint until Mr. O'Keefe chooses to proceed based on a single complaint; he cannot pursue both simultaneously and we will not consent to this improper procedure.

We note that as of now, neither complaint has been validly served on Temasek Singapore. In that regard, as predecessor counsel advised your colleague Timothy Kolaya, both orally and in writing on March 9 of this year, CSC is not a registered agent for Temasek Holdings (Private) Ltd. and to the extent you attempted to effect service on the Singapore entity by serving CSC, we will contest it by Rule 12 motion when those are due next month. So please advise soonest how you would like to proceed: on Mr. O'Keefe's Florida complaint, Mr. O'Keefe's California complaint, or whether you would prefer to litigate service of both when we move to dismiss.

We are happy to set up a call to discuss if you think that would be productive.

Regards,
Andrew

Andrew J. Ehrlich | Partner
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Pronouns: He/Him/His

From: Paschal, Hogan <hpaschal@fishmanhaygood.com>
Sent: Tuesday, September 5, 2023 3:46 PM
To: Ehrlich, Andrew J <aehrlich@paulweiss.com>; Kovalenko, Nina <nkovalenko@paulweiss.com>
Cc: Karp, Brad S <bkarp@paulweiss.com>; Beer, Alex <abeer@paulweiss.com>; Adam Fels <afels@ffslawfirm.com>;
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<kmiller@fishmanhaygood.com>; Reichard, Benjamin D. <breichard@fishmanhaygood.com>; Wells, Molly
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Subject: FW: FTX/Temasek - O'Keefe Waiver

Andrew and Nina,

I'm following up on the below. I understand that the Foreign VCs, through counsel to Softbank, would like to reach a uniform briefing schedule on Rule 12 motions. Thus far, we have served Softbank Group Corp., Softbank Group US, SB Group US, and Sino Global Capital Holdings. To promote the efficiency that would be gained by such uniform schedule, would Temasek agree to waive service for the O'Keefe (N.D. Cal.), Cabo (N.D. Cal.), and Chernyavsky (S.D. Fla.) complaints, as it agreed to waive service for the O'Keefe (S.D. Fla.) complaint on March 9, 2023?

Either way, please kindly return the executed O'Keefe (S.D. Fla.) waiver at your earliest convenience. I've reattached that correspondence from March, as well as the unsigned waiver.

Many thanks,

Hogan

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From: Paschal, Hogan

Sent: Wednesday, August 23, 2023 1:05 PM

To: Ehrlich, Andrew J <aehrlich@paulweiss.com>; Kovalenko, Nina <nkovalenko@paulweiss.com>

Cc: Karp, Brad S <bkarp@paulweiss.com>; Beer, Alex <abeer@paulweiss.com>; Adam Fels <afels@ffslawfirm.com>; rlieff@lieff.com; jsaveri@saverilawfirm.com; sWilliams@saverilawfirm.com; cyoung@saverilawfirm.com; Louis Kessler <Lkessler@saverilawfirm.com>; Swanson, James R. <jswanson@fishmanhaygood.com>; Miller, Kerry <kmiller@fishmanhaygood.com>; Reichard, Benjamin D. <breichard@fishmanhaygood.com>; Wells, Molly <mwells@fishmanhaygood.com>

Subject: FTX/Temasek - O'Keefe Waiver

Andrew and Nina,

I'm following up on the attached correspondence. On March 9, 2023, counsel to Temasek Holdings Private (Limited) agreed to waive service of the O'Keefe complaint. I see now that the waiver is yet to be executed. Please sign and return the attached waiver at your convenience.

Many thanks,

Hogan

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